



**Lara B. Fowler**  
Direct: (206) 676-7586  
E-mail: lfowler@gth-law.com

July 13, 2009

Mayor Jim Haggerton  
Tukwila City Council  
6200 Southcenter Blvd.  
Tukwila, WA 98188

**EXHIBIT** 20 **DATE** 7-13-09  
**PROJECT NAME**  
PC Recommended SMP  
**FILE NO** 206-088

RE: Updated Comments on City of Tukwila's Shoreline Master Program

Dear Mayor Haggerton and Council Members:

Thank you for continuing the April 20, 2009 Public Hearing on the City of Tukwila's Shoreline Master Program update. We submitted comments on behalf of Baker Commodities at the April 20<sup>th</sup> hearing, and attach them here for reference. Baker Commodities has also signed the letter presented by the association of landowners and incorporates comments therein by reference. Finally, Baker Commodities has reviewed the Gardner Economic report on potential economic impacts and incorporates concerns listed in that report by reference.

Overall, we reiterate our specific concerns about three key areas:

1. The draft SMP must meet existing legal agreements with Baker Commodities that addressed future use and development of its property, as well as public access concerns.
2. Because of the shape of the Baker Commodities property, the proposed increase in buffer widths from 40' to 100' greatly impacts potential future uses of this property and is of considerable economic concern; approximately 20% of the 11.87 acres of Baker Commodities' property would be affected.
3. If any activity triggers the vegetation requirements as written, there would be a potentially disproportionate impact given the approximately 2,200' of shoreline owned by Baker Commodities.

As a landowner in the City of Tukwila, Baker Commodities is generally concerned about the overall economic impacts highlighted in the Gardner Economics report, including the

Reply to:  
Seattle Office  
600 University, Suite 2100 (206) 676-7500  
Seattle, WA 98101 (206) 676-7575 (fax)

Tacoma Office  
1201 Pacific Ave., Suite 2100 (253) 620-6500  
Tacoma, WA 98402 (253) 620-6565 (fax)

Gordon Thomas Honeywell<sup>LLP</sup>

July 13, 2009

Page 2

negative impact to the real estate values of affected properties, the potential reduction in property tax revenues to the City through a reduction in assessed values, and the potential reduction in other revenue streams. Along with other affected landowners, we respectfully request the City of Tukwila to conduct a financial analysis of this proposed SMP.

Please let us know if you have questions

Sincerely,

A handwritten signature in black ink, appearing to read "Lara B. Fowler", with a long horizontal flourish extending to the right.

Lara B. Fowler

Attachment- April 20, 2009 Comment letter (without exhibits)

cc: Mitch Ebright, Vice President, General Counsel, Baker Commodities, Inc.  
Dick Hinthorne, General Manager, Baker Commodities, Inc.  
Carol Lumb, Senior Planner, Department of Community Development

LF:lf

LAW OFFICES  
GORDON THOMAS HONEYWELL LLP

SEATTLE OFFICE  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500  
FACSIMILE (206) 676-7575  
REPLY TO SEATTLE OFFICE

TACOMA OFFICE  
1201 PACIFIC AVENUE, SUITE 2100  
POST OFFICE BOX 1157  
TACOMA, WASHINGTON 98401-1157  
(253) 620-6500  
FACSIMILE (253) 620-6565

**Lara B. Fowler**  
Direct: (206) 676-7586  
E-mail: lfowler@gth-law.com

April 20, 2008

Mayor Jim Haggerton  
Tukwila City Council  
6200 Southcenter Blvd.  
Tukwila, WA 98188

RE: Comments on City of Tukwila Shoreline Master Program

Dear Mayor Haggerton and Council Members:

Thank you for the opportunity to comment on the City of Tukwila's draft Shoreline Master Program ("SMP"). I am writing on behalf of my client, Baker Commodities, Inc. Baker Commodities provides rendering services to create useable products out of waste that would otherwise be sent to a landfill. The Baker Commodities facility, located north of I-405 in the light industrial zone at 5795 S. 130<sup>th</sup> Place, has been at this location in what is now the City of Tukwila since the 1930s. The actual property is bounded on three sides by the river (see map in Attachment A), and would be greatly impacted by the City's proposed Shoreline Master Program ("SMP").

We have provided written comments and oral testimony about the draft SMP during the City of Tukwila's Planning Commission review process. Although we very much appreciate the changes made by the Planning Commission, Baker Commodities remains very concerned about several provisions in the draft SMP.

As previously noted in comments submitted to the City, Baker Commodities had lengthy litigation against the City of Tukwila during the 1990s about the use, development, and redevelopment of the property listed above. Baker Commodities reached a settlement agreement in 1996, which was then codified in the Tukwila Municipal Code. A copy of the 1996 Settlement Agreement has already been provided to the City, but is included as reference in Attachment B. As noted previously, this Settlement Agreement addressed two major areas: future use and development of the property, and public access. We have talked with the City staff about these issues, and appreciate the direct reference in Section 14.4 to TMC 18.66.120, the particular section of code that was adopted following this settlement. We also appreciate the major changes to Section 11 on public access in the draft SMP, as the Settlement Agreement specifically states that Baker Commodities will not be required to provide public access. Baker

GORDON THOMAS HONEYWELL LLP

July 13, 2009

Page 2

Commodities remains concerned about any potential interpretation that would violate the 1996 Settlement Agreement after the draft SMP is adopted.

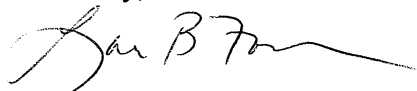
In addition, Baker Commodities remains concerned about the overall impact of increasing the buffer and the potential for triggering the vegetation requirements. First, the one-size fits all buffer width delineated in Section 7.7 of the draft SMP is problematic. In the area that includes the Baker Commodities property, the proposed "no build" buffer would be increased from 40' to 100', and would directly impact existing buildings that are within the 100' buffer (see Attachment A). Although they would be recognized as "pre-existing", Baker Commodities' ability to use these buildings in the future may be impaired. In addition, this increased buffer width greatly decreases the overall value of this property, or imposes a costly alternative of re-sloping the river bank to the City specified requirements to achieve a smaller buffer area. Because the Baker Commodities property is bounded on three sides by the river, the increased buffer width removes a huge area of potentially developable land, or the costly alternative of re-sloping the river bank, and affects the potential future use of this property.

Second, the vegetation requirements in Section 9.10 continue to be problematic. Baker Commodities is concerned that if development or re-development, no matter what size, occurs anywhere on the site within 200' of the Ordinary High Water Mark, it would have to clear the entire shoreline by hand. On this particular site, the property is bounded on three sides by the river and includes approximately 2,200 feet of riverbank. Baker Commodities has encouraged and protected the growth of a vegetative buffer, including numerous sizeable trees, within the existing 40' setback. However, removing all non-native species, including a significant amount of blackberry, mainly by hand would be very expensive, difficult to maintain, and not necessarily proportional to the activity triggering the vegetation requirements.

Again, we appreciate the changes made at the Planning Commission level, but especially given the difficult economic times, Baker Commodities remains fundamentally concerned about the negative economic impact of these proposed regulations on the viability of this property in the future. Baker Commodities recommends taking the time now to develop a more tailored approach to address the actual impact of different sites, and to ensure that rules that affect future property development are proportional to the proposed modifications to the property.

We appreciate your effort and attention to developing a draft SMP that works to both protect the environment and existing businesses within the community, and appreciate the opportunity to provide comments.

Sincerely,



Lara B. Fowler

cc: Mitch Ebright, Vice President, General Counsel, Baker Commodities, Inc.  
Dick Hinthorne, General Manager, Baker Commodities, Inc.  
Carol Lumb, Senior Planner, Department of Community Development